

TO: The Honorable Board of Supervisors

FROM: B. Clayton Goodman, III, County Administrator
L. Carol Edmonds, Assistant County Administrator

DATE: March 10, 2008

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INTO CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711
- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
 - 1. NRV Development Corporation
 - 2. Office on Youth
 - 3. Personnel
 - (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
 - 1. Prices Fork Elementary School Site
 - (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel
 - 1. Proposed Boundary Line Adjustment – Town of Christiansburg

III. OUT OF CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

IV. CERTIFICATION OF CLOSED MEETING

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

V. INVOCATION

VI. PLEDGE OF ALLEGIANCE

VII. PUBLIC ADDRESS

VIII. DELEGATION

**A. SUBJECT: METROPOLITAN PLANNING
ORGANIZATION (MPO)**

**Metropolitan Planning Organization MPO – Route 460 Connector Corridor
Study**

Dan Brugh, Executive Director of the MPO, will provide an update on the Route 460 Connector Corridor Study. (See TAB A)

IX. ADDENDUM

X. CONSENT AGENDA

XI. OLD BUSINESS

**A. SUBJECT: SPECIAL USE PERMIT
BELIVEAU DEVELOPMENT
CORPORATION**

**R-FY-08-
SPECIAL USE PERMIT
BELIVEAU DEVELOPMENT CORPORATION
(AGENT: YVAN J. BELIVEAU)
FOR THE PURPOSE OF ALLOWING A “COUNTRY INN”
AT 3000 SHIRE CIRCLE
IN THE PRICES FORK MAGISTERIAL DISTRICT
PARCEL ID # 026177, TAX MAP NUMBER 64-A-33A**

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Beliveau Development Corporation (Agent: Yvan J. Beliveau) request for a Special Use Permit (SUP) on 2.627 acres in a Residential Multi-Family (RM-1) zoning district to allow a “Country Inn” is hereby **approved** with the following conditions:

1. The following items shall be completed prior to the issuance of a building/zoning permit for the modification of the town homes and/or the proposed restaurant:
 - a. Owner shall stabilize all denuded areas and comply with local Erosion and Sediment Control Ordinance requirements.

- b. The northernmost entrance off of Shire Lane shall be upgraded to provide for sufficient turning radius of a fire truck.
 - c. Installation of required walkways.
 - d. Paving and striping of existing upper parking area.
 - e. Owner/applicant shall submit a site plan for approval in compliance with the Montgomery County Zoning Ordinance. The plan shall include any required ADA accessible parking, areas to be paved, restaurant requirements, seating, etc.
 - f. Provision of fire protection for the project unless the State Fire Marshall and the Building Official indicates fire protection is not required.
 - g. Installation of a handrail for the walkway from the upper parking area down the hill to the restaurant.
2. This Special Use Permit (SUP) allows up to twenty (20) country inn guest rental units on the property provided there are no more than sixteen (16) residential dwelling units on the property. However, the owner/applicant may increase the allowable number of country inn guest rental units on the property up to a total of thirty (30) guest rental units provided the total number of residential dwelling units on the property is reduced by one (1) for each two (2) additional country inn guest rental units added. (Refer to table)

Maximum Number of Units Allowed by SUP	
Country Inn Guest Units Allowed	Residential Dwelling Units Allowed
20	16
22	15
24	14
26	13
28	12
30	11

3. Prior to construction of any new buildings on the property, owner shall obtain VDOT approval of the entrance.

The property is located at 3000 Shire Circle, identified as Tax Parcel No(s). 64-A-33A (Acct # 026177) in the Prices Fork Magisterial District (District E).

JUSTIFICATION: At a Regular Meeting on February 13, 2008 the Planning Commission, on a vote of 7-0 (Lau & Seitz absent), recommended **approval** of the Special Use Permit request to the Board of Supervisors.
See TAB F.

B. SUBJECT: ORDINANCE WITHDRAWING 20 ACRES FROM THE AFD-9

**ORD-FY-08
AN ORDINANCE WITHDRAWING TWENTY (20) ACRES OF A
59.2 ACRE PARCEL (TAX MAP PARCEL 72(1)56 FROM
AGRICULTURAL & FORESTAL DISTRICT – 9
FOR THE DEVELOPMENT OF NEW ELEMENTARY SCHOOL
IN ELLISTON, VA**

WHEREAS, Montgomery County has requested to withdraw 20 acres of a 59.2 acre parcel (Tax Parcel 72-1-56) from Agricultural & Forestal District-9; and

WHEREAS, The Board of Supervisors of Montgomery County has processed this request in accordance with Section 15.2-4314 of the Code of Virginia, as amended, and Section 2-150 of the Montgomery County Code, including the holding of a public hearing on February 25, 2008 and the receiving of recommendations from the Advisory Committee on Agricultural and Forestal Districts and the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that the five criteria for withdrawal in Section 2-150 of the Montgomery County Code have been met and that for good and reasonable cause shown, the twenty (20) acres owned by Montgomery County is hereby withdrawn from Agricultural & Forestal District-9.

ISSUE/PURPOSE: Action on withdrawal request from landowner.

JUSTIFICATION:

By letter of January 15, 2008, Clay Goodman, Montgomery County Administrator, requested the withdrawal of 20 acres of a 59.2 acre parcel from Agricultural & Forestal District-9. This property is located in the 8500 block of Roanoke Road (US Route 460). The Board of Supervisors held a public hearing and received the recommendations of both the Agricultural and Forestal District Advisory Committee and the Planning Commission. The five criteria that must be met for withdrawal are specified in Section 2-150 of the County Code. See TAB G.

C. SUBJECT:

COMPREHENSIVE PLAN AMENDMENT

**ORD-FY-08-
AN ORDINANCE AMENDING THE 2025 COMPREHENSIVE PLAN –
ELLISTON AND LAFAYETTE VILLAGE PLAN
LAND USE MAP DESIGNATION
OF APPROXIMATELY 20 ACRES OF A 59.2 ACRE PARCEL
LOCATED IN THE 8500 BLOCK OF ROANOKE ROAD,
SOUTH OF THE EASTERN MONTGOMERY HIGH SCHOOL PROPERTY, IN
THE SHAWSVILLE MAGISTERIAL DISTRICT.
FROM RESOURCE STEWARDSHIP TO VILLAGE EXPANSION WITH THE
DESIGNATION OF THE PARCEL AS CIVIC TO ACCOMMODATE THE
DEVELOPMENT OF AN ELEMENTARY SCHOOL
IN THE SHAWSVILLE MAGISTERIAL DISTRICT**

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed amendment to the 2025 Comprehensive Plan – Elliston and Lafayette Village Plan Land Use Map meets the requirements of Section PLU 1.1.1 Policy Area Designations of the Comprehensive Plan and therefore the Elliston and Lafayette Land Use Map designation of that certain tracts or parcels of land consisting of a 20 acre portion of a 59.2 acre tract of land is hereby amended from the designation of Resource Stewardship to Village Expansion with the further designation as Civic in the Elliston and Lafayette Village Plan.

This action was commenced upon the application of Montgomery County Board of Supervisors.

The property is located in the 8500 block of Roanoke Road, located to the south of the Eastern Montgomery High School property and is identified as Tax Parcel No 072-1-56 (ID.#013681) in the Shawsville Magisterial District.

This ordinance shall take effect upon adoption.

JUSTIFICATION: At a Regular Meeting on February 13, 2008 the Planning Commission, by a vote of 7-0 (Lau and Seitz absent) found the Comprehensive Plan amendment in conformance with PLU 1.1.1 and recommended approval to the Board of Supervisors. See TAB H.

D. SUBJECT: ORDINANCE AMENDING CHAPTER 2, SECTION 2-107, TAX EXEMPTION OR DEFERRALS FOR THE ELDERLY AND HANDICAPPED

**ORD-FY-08-
AN ORDINANCE AMENDING CHAPTER 2, DIVISION 5
ENTITLED TAX EXEMPTIONS AND DEFERRALS
FOR ELDERLY AND HANDICAPPED,
SECTION 2-107 OF THE CODE OF THE
COUNTY OF MONTGOMERY, VIRGINIA
BY INCREASING THE INCOME ELIGIBILITY LIMITS
FOR EXEMPTION FROM OR DEFERRAL
OF TAXATION OF REAL ESTATE
FOR THE ELDERLY AND DISABLED**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 2, Division 5, Section 2-107 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

Sec. 2-107. Established; restrictions and conditions.

(a) The board of supervisors of the county hereby provides for the exemption from or deferral of taxation of real estate, and manufactured homes as defined in Code of Virginia, section 36-85.3, or any portion thereof, owned by and occupied as the sole dwelling of a person not less than sixty-five (65) years of age, and providing the same exemption for such property of a person who is determined to be permanently and totally disabled as provided in subsection (e) of this section, subject to the following restrictions and conditions:

(1) That the total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed ~~twenty-eight thousand dollars (\$28,000)~~ thirty thousand dollars (\$30,000.00) provided that the first ten thousand dollars (\$10,000.00) of income of each relative other than the spouse of the owner who is living in the dwelling and the first ten thousand dollars (\$10,000.00) of income for an owner who is permanently disabled shall not be included in such total.

(2) That the net combined financial worth, including the present value of all equitable interests, as of December thirty-first of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and furnishings in the dwelling including furniture, household appliances and other items typically used in a home and the land, not exceeding one (1) acre, upon which it is situated does not exceed One Hundred Thousand Dollars (\$100,000).

(3) That the person or persons claiming such exemption files annually no later than the first day of March of the taxable year with the commissioner of the revenue of the county, on forms to be supplied by the county, an affidavit or written statement setting forth the names of the related persons occupying such real estate; that the total combined net worth, including equitable interests, and the combined income from all sources of the person as specified in paragraph (1) of this subsection does not exceed the limits prescribed in this section. If such person is under sixty-five (65) years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs, or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors who are either licensed to practice medicine in the commonwealth or who are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled as defined in subsection (e); however, a certification pursuant to 42 U.S.C. § 4-23(d) by the Social Security Administration so long as the person remains eligible for such Social Security benefits shall be deemed to satisfy such definition in subsection (e). The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in subsection (e). Such certification, written statement, or affidavit shall be filed after the first day of January of each year, but before the first day of April of each year, for the permanently and totally disabled, for hardship cases, and for the first time applicants. The commissioner of the revenue has the discretion to accept late filings of first time applicants or for hardship cases until the thirty-first day of December of the taxable year. The commissioner of the revenue of the county shall make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under

oath to determine qualifications as specified in this section including, qualifications as permanently and totally disabled as defined in subsection (e) and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling. The commissioner of the revenue of the county is hereby empowered, in addition to require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

(b) Such exemptions may be granted for any year following the date that the qualifying individual occupying such dwelling and owning title, or partial title, thereto reaches the age of sixty-five (65) years or for any year following the date the disability occurred. Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided in this section shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following. The amount of exemption of the real estate tax for qualified persons shall be determined by the following table:

<i>Annual Income (Calendar Year)</i>	<i>For Qualified Persons the Percentage of Tax Which May Be Exempted</i>
\$ 0.00- \$17,900.00 <u>\$19,200</u>	100%
\$17,901.00- \$22,300.00 <u>\$19,201-\$24,000</u>	60%
\$22,301.00- \$28,000.00 <u>\$24,001-\$30,000</u>	40%

(c) The person or persons qualifying for and claiming deferral shall be relieved of real estate tax liability levied on the qualifying dwelling and land up to an amount equal to one hundred (100) percent of this liability, the amount to be deferred to be elected by the claimant. If a deferral of real estate taxes, the accumulated amount of taxes deferred shall be paid without penalty or interest to the county by the vendor upon the sale of the dwelling, or from the estate of the decedent within one (1) year after the death of the last owner thereof who qualified for tax deferral by the provisions of this section. Such deferred real estate taxes shall constitute a lien upon such real estate as if they had been assessed without regard to the deferral permitted by this section. Any such lien shall, to the extent that it exceeds in the aggregate ten (10) percent of the price for which such real estate may be sold, be inferior to all other liens of record.

(d) The board of supervisors of the county hereby deems those persons falling within the limits and conditions provided in subsections (a) and (b) of this section to bearing an extraordinary tax burden on the real estate described in this section in relation to their income and financial worth.

(e) For the purposes of this division, a person is permanently and totally disabled if he or she is so certified as required in paragraph (a)(3) of this section and is found by the commissioner of the revenue of the county under paragraph (a)(3) to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

This change in income limits shall be effective for the 2008 tax year and beyond unless amended.

E. SUBJECT: **ORDINANCE AMENDING CHAPTER 8
SECTION III, EROSION AND SEDIMENT
CONTROL**

ORD-FY-08-
AN ORDINANCE AMENDING CHAPTER 8, ARTICLE III,
ENTITLED EROSION AND SEDIMENT CONTROL,
SECTION 8-62 THROUGH SECTION 8-67 RESPECTIVELY
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
IN ORDER TO COMPLY WITH
THE VIRGINIA EROSION AND SEDIMENT CONTROL LAW

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 8, Article III, entitled Erosion and Sediment Control, Section 8-62 through 8-67 respectively of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

SEE TAB I FOR A COPY OF THE ORDINANCE

F. SUBJECT:

**AMEND RESOLUTION AUTHORIZING
THE FILING OF GRANT APPLICATION
ELLETT LOOP TRAIL**

**R-FY-08-
RESOLUTION AMENDING
AUTHORIZING THE FILING OF GRANT
APPLICATION WITH THE COMMONWEALTH
OF VIRGINIA DEPARTMENT OF CONSERVATION
AND RECREATION
FOR THE ELLETT LOOP TRAIL**

WHEREAS, On December 16, 2005, the Board of Supervisors authorized the County Administrator to file an application with the Virginia Department of Conservation and Recreation, Recreation Trails Fund Program, for an 80-20 matching grant to be shared by the Town of Blacksburg and Montgomery County to fund Section 4 and Section 5 of the Ellett Valley Loop Trail as follows:

1. Section 4, Ellett Valley Loop Trail: Construction of 2,260 linear feet of new trail and 400 square feet of parking area at a maximum cost of \$100,000.
2. Section 5, Ellett Valley Loop Trail: Construction of 2,690 linear feet of new trail, 2,000 square feet of parking area, one kiosk, one bicycle rack, and a 16 foot viewing deck at a maximum cost of \$100,000; and

WHEREAS, The grant application for Section 4 of the Ellett Valley Loop Trail was submitted in 2007 and grant funding received in 2008; and

WHEREAS, The grant application for Section 5 is being drafted for submittal in March 2008 with revised construction costs.

NOW THEREFORE BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the County Administrator is authorized to file an application with the Virginia Department of Conservation and Recreation, Recreation Trails Fund Program, for an 80-20 matching grant to be shared by the Town of Blacksburg and Montgomery County to fund the following project:

1. Section 5, Ellett Valley Loop Trail: Construction of 600 linear feet of trail with multiple small puncheon bridges to a viewing deck. Construction of a 200 foot by 10 foot wide drive to a 2,000 square feet of parking area, one kiosk, and one bicycle rack. Cleaning and securing old spring house with an 8 foot fence enclosure at a maximum cost of \$125,000.

JUSTIFICATION:

The grant application for Section 5 is being drafted for submittal in March 2008. Due to rising cost of construction the estimated cost for construction of Section 5 is \$125,000. This resolution authorizes the submittal of the grant application with the revised costs.

XII. INTO WORK SESSION

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Presentation of the FY 08-09 Budget.
2. Courthouse Project
3. Revenue Sharing Funds & Six-Year Road Plan

XIII. OUT OF WORK SESSION

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

XIV. NEW BUSINESS

A. SUBJECT: DONOR AGREEMENT WITH BLACKSBURG ATHLETIC BOOSTER CLUB

**R-FY-08-
A RESOLUTION APPROVING THE
DONOR AGREEMENT BY AND BETWEEN
THE BLACKSBURG HIGH SCHOOL ATHLETIC BOOSTERS,
THE MONTGOMERY COUNTY SCHOOL BOARD AND
THE BOARD OF SUPERVISORS
OF THE COUNTY OF MONTGOMERY, VIRGINIA**

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby approves the Donor Agreement by and between the Blacksburg High School Athletic Boosters, the Montgomery County School Board and the Montgomery County Board of Supervisors.

BE IT FURTHER RESOLVED, That the Board of Supervisors hereby authorizes Annette Perkins, Chair of Board of Supervisors of the County of Montgomery, to execute the said Donor Agreement on behalf of the Board of Supervisors of the County of Montgomery

ISSUE/PURPOSE: Resolution approving the Donor Agreement between the Blacksburg High School Athletic Boosters, the Montgomery County School Board and the Montgomery County Board of Supervisors. A copy of the Donor Agreement is included in TAB J.

**B. SUBJECT: OFFICE ON YOUTH APPOINTMENT
2 APPOINTMENTS**

**R-FY-08-
OFFICE ON YOUTH ADVISORY BOARD
DISTRICT F REPRESENTATIVE
APPOINTMENT**

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints _____ to the Office on Youth Advisory Board effective March 11, 2008 and expiring March 10, 2011.

**R-FY-08-
OFFICE ON YOUTH ADVISORY BOARD
AT-LARGE REPRESENTATIVE
APPOINTMENT**

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints _____ to the Office on Youth Advisory Board effective March 11, 2008 and expiring November 16, 2008.

Said appointment fills the unexpired term of Justin Moby, resigned.

**C. SUBJECT: VDOT REVENUE SHARING FUNDS
FOR FY 2008-2009**

**R-FY-08-
RESOLUTION AUTHORIZING
TO APPLY FOR VDOT
REVENUE SHARING FUNDS
FY 2008-2009**

WHEREAS, The Board of Supervisors of the County of Montgomery desires to submit an application for an allocation of up to _____ through the Virginia Department of Transportation Fiscal Year 2008-2009 Revenue Sharing Program; and

WHEREAS, (same amount as listed above) of these funds are requested to fund the following:

- 1.
- 2.
- 3.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, hereby supports this application for an allocation of _____ through the Virginia Department of Transportation Revenue Sharing Program.

ISSUE/PURPOSE: Authorization to apply for FY 2008-2009 Revenue Sharing funds.

JUSTIFICATION When the Roads Committee (Supervisors Politis and Marrs) and the County Administrator met with VDOT's Residency Administrator on February 15, 2008, discussion included FY 2008-2009 Revenue Sharing projects.

**D. SUBJECT: ARCHITECT SERVICE AGREEMENT WITH
THOMPSON & LITTON FOR THE
COURTHOUSE PROJECT**

**R-FY-08-
RESOLUTION APPROVING THE
ARCHITECT SERVICE AGREEMENT
BY AND BETWEEN THE MONTGOMERY COUNTY
BOARD OF SUPERVISORS AND THOMPSON & LITTON
FOR THE COURTHOUSE PROJECT**

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby approves the Architect Service Agreement by and between the Montgomery County Board of Supervisors and Thompson & Litton the Courthouse Project.

BE IT FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the County Administrator to execute said agreement on behalf of the Board of Supervisors.

JUSTIFICATION: See TAB **K** for a copy of the Architect Service Agreement.

XV. COUNTY ATTORNEY'S REPORT

XVI. COUNTY ADMINISTRATOR'S REPORT

XVII. BOARD MEMBERS' REPORT

1. Supervisor Biggs
2. Supervisor Politis
3. Supervisor Muffo
4. Supervisor Creed
5. Supervisor Brown
6. Supervisor Marrs
7. Supervisor Perkins

XVIII. OTHER BUSINESS

XIX. ADJOURNMENT

FUTURE MEETINGS

Special Meeting
Joint Meeting with Montgomery County School Board
Multi-Purpose Room, First Floor
Government Center
Tuesday, March 11, 2008
Time: 6:00 p.m.

Special Meeting
Budget Work Session
Monday, March 17, 2008
6:00 p.m.

Adjourned Meeting
Monday, March 24, 2008
6:00 p.m. – Closed Meeting Items
7:15 p.m. Regular Agenda